

MERC (Distribution Open Access) and (Transmission Open Access) Regulations, 2016**PRACTICE DIRECTIONS****PROCESSING OF OPEN ACCESS APPLICATIONS****Preamble**

The Commission has received several representations regarding difficulties faced by Open Access Applicants with regard to the following issues:

- a) Wheeling and Transmission Charges are being levied by a Distribution Licensee based on the capacity of the Short-Term Open Access (STOA) applied for (since December, 2016).
- b) Wheeling Charges and Transmission Charges are being recovered by the Licensee for the entire period of the STOA granted in case of non-utilisation even in respect of Renewable Energy (RE).
- c) STOA is being restricted by the Licensee up to the Current/Potential Transformer (CT/PT) Metering capacity of the Consumer.
- d) Applications for Medium-Term Open Access (MTOA) are not being responded to and permissions not being given by the Licensee (since April, 2016).
- e) Some Open Access Applications are rejected for non-submission in the prescribed format and other such procedural deficiencies.

Issues

The Commission's observations on these issues are as follows:

ISSUE (A) - Levy of Wheeling and Transmission Charges based on the capacity applied for

- a) The MERC (Distribution Open Access), Regulations, 2016 ('DOA Regulations') provide as follows for the levy of Wheeling Charges on STOA Consumers:

"14.6 Wheeling Charge

a) An Open Access Consumer, Generating Station or Licensee, as the case may be, using a Distribution System shall pay to the Distribution Licensee such Wheeling Charges, on the basis of actual energy drawal at the consumption end, as may be determined under the Regulations of the Commission governing Multi-Year Tariff;"

- b) The MERC (Transmission Open Access) Regulations, 2016 ('TOA Regulations') provide as follows for the levy of Transmission Charges on Open Access Consumers:

“14.1 A Transmission System User shall pay the following charges to the Nodal Agency:

(a) For use of the Inter-State Transmission System – As stipulated by the Central Commission from time to time;

(b) For use of the Intra-State Transmission System – As stipulated by the Commission from time to time.”

c) The Transmission Charges for STOA have been determined on Rs/ kWh basis in the Commission’s Intra-State Transmission System (InSTS) Tariff Order in Case No. 91 of 2016:

“7.1 Regulation 61.3 of the MYT Regulations, 2015 specifies the formula for the determination of Base Transmission Tariff of each year for long, medium and short term transactions as follows:

“61.3 Base Transmission Tariff for each Year shall be determined as ratio of approved ‘TTSC’ for intra-State transmission system and approved ‘Base Transmission Capacity Rights’ and shall be denominated in terms of “Rs/kW/month” (for long-term/medium-term usage) or in terms of “Rs/kWh” (for short-term bilateral open access transactions usage, short-term collective transactions over Power Exchange and for Renewable Energy transactions) in accordance with the following formula: ...”

... In line with Regulation 61.3 and based on the TTSC and Base TCR approved in this Order, the Commission has determined the Transmission Tariff for use of the InSTS for the 3rd Control Period as shown in the following Table:

Table 1: Transmission Tariff for FY 2016-17 to FY 2019-20 considering TTSC

<u>TSU - Distribution Licensees</u>	<u>Units</u>	<u>FY 2016-17</u>	<u>FY 2017-18</u>	<u>FY 2018-19</u>	<u>FY 2019-20</u>
		<u>Approved in this Order</u>	<u>Approved in this Order</u>	<u>Approved in this Order</u>	<u>Approved in this Order</u>
<u>TTSC (approved)</u>	<u>Rs. Crore</u>	4,596.26	5,805.51	6,519.27	6,599.91
<u>Base TCR (approved)</u>	<u>MW</u>	18,757	20,168	21,404	22,719
<u>Transmission Tariff (long term/ medium term)</u>	<u>Rs./kW/ month</u>	204.24	239.88	253.82	242.08
<u>Transmission Tariff (short term/ collective/ renewable energy)</u>	<u>Rs./kWh</u>	<u>0.28</u>	<u>0.32</u>	<u>0.34</u>	<u>0.32</u>

- d) However, instead, the Distribution Licensee is levying Wheeling Charges on the basis of the Consumer's Open Access Contract Demand by applying the following formula of its own:

Wheeling Charge amount = Open Access CD x 24 hours x No. of days in transaction period x applicable Wheeling Charge.

- e) The Distribution Licensee is also levying Transmission Charges on the basis of the Consumer's Open Access Contract Demand by applying the following formula of its own:

1) For Conventional Energy:

a. Actual injected power = Higher of Open Access CD OR Maximum injected power x 4

b. Transmission Charge amount = Actual injected power x 24 hours x No. of days in transaction period x applicable Transmission Charge.

2) For Non-Conventional Energy:

a. Transmission Charge amount = Open Access CD x 24 x No. of days in transaction period x applicable Transmission Charge.

- f) On the contrary, Regulation 14.6 of the DOA Regulations (quoted above) specifies that an Open Access Consumer, Generating Station or Licensee using a Distribution System shall pay Wheeling Charges on the basis of the actual energy drawn at the consumption end.
- g) The Commission has been determining the Transmission Charges for STOA transactions on Rs./kWh basis since its Tariff Order dated 10.9.2010 in Case No. 103 of 2009, which stated as follows:

“ 2.15 ...Commission's Rulings

The Commission observes that denomination of short term open access charges in Rs/MWh or Rs/kWh instead of Rs/MW/day would be simple and easy to implement. The Commission observes that earlier condition that short term open access charges shall be payable for minimum 6 hours duration within day was rendering the short term open access transactions for duration lower than 6 hours un-economical. The Commission also notes that MSETCL as largest transmission licensee in the State has not objected to proposed suggestion of revision in denomination of transmission pricing for short term open access transactions in terms of Rs/kWh or Rs/MWh. Accordingly, the Commission accepts the suggestion made by the objector and rules that the transmission charges for short term open access transaction shall be denominated in Rs/MWh and the condition of payment of transmission charges for minimum 6 hours duration shall no longer be applicable. However, the Commission reiterates that transmission charges for long

term open access transactions shall continue to be denominated in terms of Rs/kW/month...”

- h) Thus, it is clear that Wheeling Charges for STOA transactions are to be paid on the basis of the actual energy drawal at the consumption end; and that the Transmission Charges are payable on the basis of Rs/kWh for STOA usage (also at the consumption end).

ISSUE (B) - Levy of Wheeling and Transmission Charges upon non-utilisation of STOA for RE power

- a) Regulation 11.9 of the DOA Regulations provides as follows in case of non-utilisation of the STOA capacity granted:

“Non-utilisation of Short-term Open Access

11.9 If the Consumer, Generating Company or Licensee, as the case may be, is unable to utilize for more than four hours the full or a substantial part of its allocated capacity, it shall inform the Nodal Agency, and may surrender the use of such capacity but shall pay transmission and Wheeling Charges applicable to the original reserved capacity and period. If the Nodal Agency is able to re-allocate this capacity, the entity who has surrendered the capacity shall be refunded transmission and wheeling charges based on the amount and period of the reallocated capacity by the Nodal Agency.”

- b) However, Regulation 16.2 recognises the nature of RE as infirm power, which is also exempted from scheduling and from the settlement for over-injection and under-injection under Regulation 20.1 of the DOA Regulations.
- c) Thus, it is clear that Regulation 11.9 of the DOA Regulations, which has to be read with the provisions of Regulations 16.2 and 20.1, is not applicable to RE power.

ISSUE (C) – Restriction of STOA up to the CT/PT capacity of Consumer Metering

- a) The earlier Practice Directions dated 19.10.2016 had reiterated the provisions of the Regulations, namely that they do not restrict the quantum of power to be sourced through Open Access to the Consumer’s Contract Demand, subject to availability of the necessary infrastructure and capacity of the Distribution System (which would include the CT/PT parameters of Consumer metering). However, Wind Energy (and such other RE generation) is of the nature of infirm power with a low annual CUF. Hence, Open Access permission may be required by a RE Generator for a capacity much higher than the stated drawal requirement of the Open Access Consumer. The DOA Regulations provide for banking of RE generation in excess of that requirement. While the drawal of such RE power by the Consumer would be limited to his stated requirement, any excess power that is generated is absorbed by the Distribution Licensee and may be drawn subsequently by the Consumer through the facility of banking and be adjusted accordingly. In these circumstances, CT/PT augmentation will not be required unless the

existing Metering arrangement is not adequate for the stated STOA/MTOA drawal requirement of the Consumer.

b) In case it is not adequate, the Distribution Licensee is expected to inform him of the augmentation or upgradation required so that he may consider doing so in future.

ISSUE (D) – Not responding to MTOA Applications or issuing MTOA permissions

Regulation 10.5 of the DOA Regulations requires the Distribution Licensee, as the Nodal Agency, to convey its decision on a MTOA Application within 60 days, and to inform the Applicant in writing of the reasons in case it is rejected. It does not have the option not to decide on such Application, or not to convey the reasons for rejection, within the stipulated time

ISSUE (E) – Rejection of STOA because of non-submission of Application in prescribed format or other such procedural deficiencies

It has been represented that some Applications for STOA are being rejected because they have been made in the old format or other such procedural deficiencies without giving an opportunity to the Applicant to remove the deficiencies, resulting in STOA for that month having to be foregone. Applications in the old format were rejected even though the Distribution Licensee had not uploaded the new forms on its website within the stipulated period. The 2nd proviso to Regulation 4.1 specifies that any inconsistency between the old forms and the provisions of the new Regulations shall be harmoniously construed. However, the formats of the new application forms are also annexed to the DOA Regulations, 2016.

The Commission notes that some of these issues have arisen notwithstanding the clear provisions of the TOA and DOA Regulations in this regard, as explained above.

In exercise of its powers under Regulation 34 of the TOA Regulations and 35 of the DOA Regulations, the Commission gives the following Practice Directions in the background and facts set out above:

Practice Directions

1. A STOA Consumer, Generating Station or Licensee using a Distribution System shall pay Wheeling Charges or Transmission Charges, as the case may be, on the basis of the actual energy drawal at the consumption end on Rs/kWh basis. The Distribution Licensee shall refund any amounts recovered in excess of these stipulations within a month, with applicable interest, without requiring such refund to be applied for.
2. Considering Regulations 16.2 and 20.1 of the DOA Regulations, Regulation 11.9 is not applicable to RE power and Wheeling and Transmission Charges shall not be applicable for non-utilisation of the STOA granted for sourcing RE power. The Distribution

Licensee shall refund any amounts recovered on this account within a month, with applicable interest, without requiring such refund to be applied for.

3. CT/PT augmentation will not be required unless the existing Metering arrangement is inadequate for meeting the stated STOA or MTOA drawal requirement of the Consumer.
4. Regulation 10.5 of the DOA Regulations requires the Distribution Licensee to convey its decision on a MTOA Application within 60 days, along with reasons in case it is rejected. The Distribution Licensee shall convey, within the next 15 days, its decision, with reasons for rejection if relevant, on all those Applications which are presently pending for decision or reply beyond the stipulated period. As regards the representation that some MTOA Applications have not been responded to by the Distribution Licensee as stipulated in the Regulations since April, 2016 and considering that such Applications had to be made at least 3 months in advance, the Distribution Licensee may be liable for the consequences arising from the delay in deciding or conveying its decision on such Applications.
5. Where an Application is made for Transmission or Distribution Open Access to the Nodal Agency, it shall communicate any preliminary or procedural deficiency (such as non-submission in the prescribed format, and other such miscellaneous deficiencies) within three working days from its receipt so that the Applicant has time to rectify the deficiency.

Sd/-
(Deepak Lad)
Member

Sd/-
(Azeez M. Khan)
Member


(Ashwani Kumar Sinha)
Secretary

